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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,367	11/20/2003	Pablo Nolasco	AUTOLIFT-INTEGRATED	9534
4988	7590	03/24/2006	EXAMINER	
ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712			GREENHUT, CHARLES N	
		ART UNIT	PAPER NUMBER	
		3652		

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/718,367	NOLASCO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles N. Greenhut	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 and 14 is/are pending in the application.
  - 4a) Of the above claim(s) 10-13 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-14 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**I. Election/Restriction**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9 and 14, drawn to an arrangement of accessories on a tow truck, classified in class 414, subclass 563.
- II. Claims 10-13, drawn to method of lifting a four wheeled vehicle, classified in class 414, subclass 800. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the process for using the product as claimed can be practiced with another materially different product . Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Claims 10-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Election was made without traverse by Alfred Walker via telephone on 3/8/06.

**II. Claim Objections**

1. Claim 1 is objected to because there appears to be an extraneous semicolon after the word recess in line 6.

**III. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-9 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - 1.1. With respect to claims 1, 6, and 14 the term “oblique” in line 4 renders the claim indefinite because it is unclear what the extender arms are oblique in reference to.
  - 1.2. With respect to claims 1 and 6, the term “therebetween” in line 7 renders the claim indefinite because it is unclear whether this phrase refers to between the tow bar and the pair of extender arms or between each one of the pair of extender arms.
  - 1.3. With respect to claims 1, the terms “rearwardly”, “transverse”, and “laterally” render the claim indefinite because these direction have not been defined nor has the tow truck been positively set forth within the claim.
  - 1.4. Claims 1, 6 and 14 recite the limitation, “said tow truck.” There is insufficient antecedent basis for this limitation in the claim since the truck has not been positively recited previously.
  - 1.5. With respect to claim 9, the term “as in said arrangement” in line 3 renders the claim indefinite because it is unclear what this term refers to.
  - 1.6. With respect to claim 14, the phrase, “said telescopic boom having a recess extending between said telescopic boom and a deck” renders the claim indefinite because it is unclear how the boom can have a recess that is between the boom and another component.

- 1.7. With respect to claim 14, the term, "a recess" in line 8 renders the claim indefinite because that term was previously used to describe another element.
- 1.8. Claim 14 recites the limitation, "said second recess" in line 13. There is insufficient antecedent basis for this limitation in the claim.
- 1.9. Claim 14 recites the limitation, "said recess of said deck" in line 10. There is insufficient antecedent basis for this limitation in the claim.
- 1.10. Claim 14 recites the limitation, "its storage and deployed position" in line 20. There is insufficient antecedent basis for this limitation in the claim. I.e., it was not previously recited that the wheel lift probe had these positions.
- 1.11. Claim 14 recites the limitation, "said recess under said telescoping boom" in line 30. There is insufficient antecedent basis for this limitation in the claim.
- 1.12. Claim 14 recites the limitation, "clearance required" in line 7-8. This term is a relative term which renders the claim indefinite. The term "clearance required" is not defined by the claim and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. I.e., required in order to achieve what?

#### **IV. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1, 5-6, 9 and 14 is/are rejected under 35 U.S.C. 102(b) as being anticipated by ALLISON (US 4,737,066 A).

1.1. With respect to claim 1, 5, and 6, ALLISON discloses a telescoping boom (12), tow bar assembly having extender arms with a first recess therebetween (retracted in Fig. 1), wheel lift assembly (Fig. 2), having a probe (15), cross bar (42), rotatable laterally movable (note arrows in Fig. 2) scoops (46), deck (16), second recess (within 14) into which the wheel lift assembly is situated (Fig. 2 & 6), the left and right extender arms rotably attached adjacent thereto (Fig. 1) and a third recess extending downward through a portion of the deck a portion of the probe assembly therein (see top portion of Fig. 3 and Fig. 6).

1.2. With respect to claim 9, ALLISON additionally discloses a top surface being the upper most portion of the wheel lift which always remains lower than the bottom surface of the rear window (Fig. 1).

1.3. As best understood by examiner, with respect to claim 14, ALLISON discloses a telescoping boom (12), a second deck recess (within 14) between the deck (16) and telescoping boom, tow bar assembly having extender arms with a first recess therebetween (retracted in Fig. 1), the wheel lift assembly partly situated in the deck recess in a stored and deployed position (Fig. 2 & 6), the left and right extender arms rotably attached adjacent to the second recess (Fig. 1) tow bar being stored by folding over the deck recess, the recess under the boom (within 14) providing storage space.

## **V. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 3-4 and 7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over ALLISON (US 4,737,066 A)..

1.1. With respect to claim 3 and 4, it would have been obvious to one of ordinary skill in the art to modify ALLISON with a V-shaped or truncated V-shaped recess in order to accommodate a pair of similarly shaped extender arms.

1.2. With respect to claim 7, ALLISON additionally discloses a tow bar holding portion comprising a slanted ramp (Fig. 1). While ALLISON is silent as to a locking means, without such means the inertial forces of acceleration would cause the tow bar to swing backwards potentially causing damage to towed vehicle V. It would have been obvious to one of ordinary skill in the art, therefore, to modify ALLISON with a tow bar locking means in order to prevent damage to the towed vehicle.

2. Claim(s) 8 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over ALLISON in view of PETERSON (US 4,384,817 A).

2.1. With respect to claim 8, ALLISON teaches portions of the wheel lift within both the deck recess (Figs. 2, 3 & 6). ALLISON fails to teach that a portion of the wheel lift is located within the extender arm recess. PETERSON teaches a portion of the wheel lift (24) between extender arms (40). It would have been obvious to one of ordinary skill in the art to modify ALLISON with the wheel lift between the extender arms as taught by PETERSON in order to accommodate a wheel lift mounting to the top surface of the deck.

3. Claim(s) 2 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over ALLISON in view of CHALUPSKY (US 3,770,138 A).

3.1. With respect to claim 2, ALLISON does not go into detail regarding the boom structure. CHALUPSKY teaches a three stage boom for use with wreckers (Fig. 1/Co1. 1). It would have been obvious to one of ordinary skill in the art to modify ALLISON with the boom of CHALUPSKY in order to extend the boom stroke length.

## **VI. Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access

Art Unit: 3652

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(toll-free).

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